IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

LA.App..No. 1839 of 2002(D)

LAR.93/1993 of PRINCIPAL SUB COURT,KOLLAM
.....

APPELLANT: RESPONDENT

STATE OF KERALA

BY GOVERNMENT PLEADER SMT.K.R.DEEPA.

RESPONDENTS: CLAIMANT

LALITHA, CHIRAYATHU VEEDU,
THATAMALA P.O., KOLLAM.

BY ADV. SRI.P.B.SURESH KUMAR

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 24/09/2007, ALONG WITH LAA NO. 307 OF 2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A.NO.377/03 IN LAA 1839/2002

DISMISSED.

24.9.2007. SD/- KURIAN JOSEPH, JUDGE.

SD/- HARUN-UL-RASHID, JUDGE.

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. Nos.1839/02 & 307/07

Dated 24th September, 2007.

J U D G M E N T

Harun-Ul-Rashid, J.

The State has preferred both appeals against LAR Nos.93/93 and 63/91 respectively on the file of the Sub Court, Kollam.

2. In LAR 93/93, the extent acquired is 04.05 Ares of land in survey No.4826, 09.65 Ares of land in survey No.4827/03 and 02.43 Ares of land in survey No.4828 of Vadakkevila village. The acquisition was for National Highway and Section 4(1) notification was issued on 23.6.1988. The Land Acquisition Officer fixed the land value at the rate of Rs.9,515/- per Are in LAR 93/93, against the claim of Rs.20,000/- per cent. The claimant produced Exts.A1 and A2 and PW1 was examined. Exts.R1 to R3 were produced on the side of the respondent. The court below, after considering the value of the property in Ext.A1 document and considering the amount fixed in Ext.A2 common judgment in LAR 61/91 and connected cases, held that the claim for Rs.10,000/- per cent is allowable and therefore, the land value

was fixed at Rs.10,000/- per cent for 16.13 Ares of land, which has been acquired for the purpose of National Highway. Being aggrieved by the quantum fixed, the State has preferred LAA 1839/02.

3. LAR 63/91 is a connected case wherein 20 Ares of land in survey No.3903/8 of Vadakkevila village was acquired for the National Highway. The Land Acquisition Officer fixed the land value at the rate of Rs.9,176/- per Are and the reference court re-fixed the land value at the rate of Rs.23,465/- per Are.

4. The reference court after considering elaborately the facts and circumstances and the evidence on record reconsidered the fixation of Rs.15,000/- per cent before remand and observed that the market value of the acquired land fixed by the Land Acquisition Officer is highly inadequate and unreasonable, in view of the importance and potentialities of the area in which the acquired land is situated. On a consideration of the totality of evidence let in all the references jointly tried, the court below fixed Rs.23,465/- per Are. In the first category cases, the land value was fixed at the rate of Rs.10,000/- per cent (Rs.24,700/- per Are). The acquired land in LAR 63/91 being included in the second category, the land value was fixed deducting 5% of the value fixed for the first category, since

second category properties are having only Panchayat road access. Thus the value was fixed by the court below after considering all the aspects. We are of the view that the fixation of the land value at the rates mentioned above is fair and reasonable. We find no grounds to interfere in the fixation of land value. Therefore, the appeals do not deserve consideration and the same are dismissed.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

tgs

KURIAN JOSEPH &

HARUN-UL-RASHID, JJ

L.A.A. Nos.1839/02 & 307/07

J U D G M E N T

Dated 24th September, 2007.